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YOUR TOWN ONLINE, INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

YOUR TOWN ONLINE, INC., a California
Corporation,

Plaintiff,

v.

ALL TRIBAL NETWORKS, LLC, a California
limited liability company; SPY EGO MEDIA,
LLC a Nevada limited liability company; JAMES
GUSMAN, an individual; ROUND VALLEY
INDIAN TRIBES, a federally recognized Indian
tribe; JAMES RUSS, an individual; MICRONET
COMMUNICATIONS, INC., a Texas
Corporation; and, CMS HOLDINGS, an Illinois
limited liability company dba IntelPath.

Defendants.

Case No.:

**COMPLAINT FOR DAMAGES, AND FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

DEMAND FOR JURY TRIAL

Plaintiff Your Town Online, Inc. a California corporation, alleges as follows:

I. NATURE OF ACTION

1. Plaintiff Your Town Online is a small wireless and broadband internet service provider that provides service to rural and tribal areas of Mendocino County. Defendant's Spy Ego Networks through All Tribal Networks (an LLC in which Spy Ego is the managing member) and its own managing member James Gusman is attempting to start a competing wireless and broadband service in the same area. While the competition is welcome, these defendants are unfairly and

1 unlawfully interfering with Your Town Online’s business. Such unfair and unlawful activities
2 include, inter alia, causing the Round Valley Indian Tribes to obtain a license with the FCC which
3 should not have been issued because it interferes with Plaintiff’s ongoing and licensed broadcasts;
4 using this interference to disrupt Plaintiff’s service to its customers; disparaging Plaintiff’s services
5 to Plaintiff’s customers; and using the threat of its own unlawful interference with Plaintiff’s radio
6 broadcasts as a marketing tool to entice Plaintiff’s customers to subscribe to its service rather than
7 Your Town Online’s.

8 **II. PARTIES**

9 2. Plaintiff Your Town Online, Inc. (hereinafter “Your Town Online” or “Plaintiff”), is
10 a corporation organized and existing under the laws of the State of California and, at all times
11 relevant hereto, is authorized to do and does business in the County of Mendocino, California.

12 3. Plaintiff is informed and believes, and on that basis alleges, that Defendant All
13 Tribal Networks, LLC (hereinafter “All Tribal Networks”) is a limited liability company organized
14 and existing under the laws of the State of California and, at all times relevant hereto, had its
15 principal place of business in the County of Mendocino, California.

16 4. Plaintiff is informed and believes, and on that basis alleges, that Defendant Spy Ego
17 Media, LLC (hereinafter “Spy Ego”) is a limited liability company organized and existing under the
18 laws of the State of Nevada. Plaintiff is further informed and believes that Spy Ego is the managing
19 member of Defendant All Tribal Networks.

20 5. Plaintiff is informed and believes, and on that basis alleges, that Defendant James
21 Gusman is an individual residing in Mendocino County, California. Plaintiff is further informed
22 and believes that Defendant James Gusman is the managing member of Defendant Spy Ego
23 Networks.

24 6. Plaintiff is informed and believes, and on that basis alleges, that Defendant Round
25 Valley Indian Tribes is a federally recognized Indian tribe with its reservation located in the County
26 of Mendocino, California.

27 7. Plaintiff is informed and believes, and on that basis alleges, that Defendant James
28 Russ is an individual residing in Mendocino County, California and at all relevant times herein was

1 the president of the Round Valley Indian Tribes Tribal Council.

2 8. Plaintiff is informed and believes, and on that basis alleges, that Defendant Micronet
3 Communications, Inc., is corporation, organized and existing under the laws of the state of Texas
4 with its principal place of business in Plano, Texas.

5 9. Plaintiff is informed and believes, and on that basis alleges, that Defendant CMS
6 Holdings, LLC, is a limited liability company organized and existing under the laws of the State of
7 Illinois and, with at its principal place of business in Hinsdale, Illinois. Plaintiff is informed and
8 believes, and on that basis alleges, that CMS Holdings, LLC does business under the name
9 IntelPath. (Hereinafter CMS Holdings, LLC shall be referred to as “IntelPath”)

10 10. Plaintiff is informed and believes, and on that basis alleges, that at all times relevant
11 herein, Defendants, and each of them, were the agents, servants, and/or employees of their co-
12 Defendants, and in doing the things alleged herein, were acting within the scope of their authority
13 as such agents, servants, and/or employees and with the permission, consent, and/or ratification of
14 their co-Defendants.

15 **III. JURISDICTION AND VENUE**

16 11. This Court has original subject matter jurisdiction over this action pursuant to 28
17 U.S.C. § 1331 (federal question) and under section 39 of the Lanham Act 15 U.S.C. §1121(a). The
18 Court has supplemental jurisdiction over Plaintiff’s related state and common law claims pursuant
19 to 28 U.S.C. §§ 1367(b) as they are substantially related to the claims for which this Court has
20 original jurisdiction and form part of the same case or controversy.

21 12. Venue is proper in this Court under 28 U.S.C. § 1391 a substantial part of the events
22 or omissions giving rise to Plaintiff’s claims occurred in this District.

23 **IV. INTRADISTRICT ASSIGNMENT**

24 13. This action arises in Mendocino County and Shasta County and should be assigned
25 to the Eureka Division.

26 **V. FACTS**

27 14. Plaintiff Your Town Online is a small wireless and broadband internet service
28 provider. Since 2002, Your Town Online, or its predecessor Willitsonline, LLC, has been

1 providing broadband services to communities in the rural and tribal areas of Mendocino County in
2 Northern California. Plaintiff now serves over 1000 business and personal customers.

3 15. Your Town Online also provides internet service to the Round Valley United School
4 District and the Eel River Charter School. The service to those schools is essential for them to
5 function as educational institutions for their students, a service that has especially been dependent
6 on reliable connections for student instruction via Zoom and other applications during the COVID-
7 19 pandemic. Your Town Online's with the Round Valley United School District requires Plaintiff
8 to provide network transmission services on its network to interconnect District students and staff
9 with these resources at various levels of attainable bandwidths. For that purpose, and at
10 considerable expense, Plaintiff installed two wireless transmission systems, one of which is located
11 on the roof of the Round Valley High School Gymnasium and the other of which was installed on
12 private property in Round Valley.

13 16. To provide internet services to its customers in the Round Valley and Covello
14 areas, Your Town Online utilizes a point-to-point microwave communication system to transmit
15 data between a transmitter and receiver located in Willits California and a transmitter and receiver
16 located 16 miles away at the top of Sanhedrin Mountain. On October 10, 2007, Plaintiff's
17 predecessor, Willitsonline, LLC, was issued a radio frequency license by the Federal
18 Communications Commission through the Universal Licensing System (ULS), with the call sign of
19 WQHQ838, authorizing it to transmit as a common carrier, Fixed Point-to-Point, from the vicinity
20 of Mount Sanhedrin, Mendocino County, among other locations. At the expiration of the license,
21 Plaintiff was issued a license with the call sign WRBY237. At all times relevant, Willitsonline,
22 LLC and then Your Town Online, have been continuously transmitting pursuant to these licenses at
23 a frequency of approximately 6 GHz, on land leased from Fisher Wireless Services, Inc.

24 17. Plaintiff is informed and believes, and on that basis alleges, that in or around 2018,
25 Defendant Gusman, through his company Spy Ego Media, LLC began marketing computer network
26 design, engineering, and security services to American Indian tribes throughout the country.
27 Plaintiff is further informed and believes, and on that basis alleges, that thereafter Spy Ego Media
28 began providing such services for the Round Valley Indian Tribes.

1 18. Plaintiff is informed and believes, and on that basis alleges, that in 2020, Defendant
2 Gusman caused Spy Ego Media to form Defendant All Tribal Networks to be a provider of cellular
3 and internet services to the rural and tribal areas of Mendocino County. Plaintiff is further
4 informed and believes that All Tribal Network began working with the Round Valley Indian Tribes
5 to put the infrastructure in place for All Tribal Network's cellular and internet services.

6 19. Plaintiff is informed and believes, and on that basis alleges, that in approximately
7 December of 2020, All Tribal Networks and/or Round Valley Indian Tribe installed transmitters
8 and receivers on Mount Sanhedrin and in the town of Willits. The transmitter and receiver on
9 Mount Sanhedrin were placed on the same tower where Plaintiff's transmitter and receiver are
10 located. All Tribal Network's transmitter and receiver in the town of Willits is located
11 approximately one mile from Plaintiff's transmitter and receiver.

12 20. Plaintiff is informed and believes, and on that basis alleges, that on January 12,
13 2021, All Tribal Networks and/or Round Valley Indian Tribe began testing their equipment on the
14 Mount Sanhedrin to Willits path using frequencies in both the 11GHz band and the 6Ghz band.

15 21. When All Tribal Networks tested their equipment using a frequency in the 6GHz
16 band, it caused severe interference with Plaintiff's reception of its Sanhedrin to Willits broadcast,
17 causing disruption in service to Your Town Online's customers.

18 22. Your Town Online immediately notified All Tribal Networks of the actual
19 interference that the transmission caused to Your Town Online's reception at its Willits receiver.
20 Your Town Online also reported this interference to Defendant IntelPath, an FCC approved
21 frequency coordinator, so that, IntelPath could work with Micronet, All Tribal Network's and
22 Round Valley Indian Tribes' frequency coordinator, to determine if the 6Ghz channel on which All
23 Tribal Networks had broadcasted could be utilized without interference to Your Town Online's
24 service or whether such channel was not available on the path.

25 23. Defendants Round Valley Indian Tribes and/or All Tribal Networks later
26 acknowledged the interference caused by their equipment in their own publications and
27 advertisements. For example, on March 29, 2021, these Defendants issued a publication and
28 advertisement entitled "Illegal Providers Interfering With Services." This publication identified the

1 6 GHz and 11 GHz transmission capabilities of All Tribal Networks and stated:

2 The 11 GHz system has more capacity and has more channels which provided an
3 easier process to design and secure the channels, however due to it having a
4 frequency that is potentially more impacted by heavy rains and adverse weather, the
5 design planned to use the 6 GHz microwave spectrum to provide a more reliable
6 connection during these conditions. One of the issues experienced throughout the
7 wireless field is the 6 GHz frequencies being very congested and not a lot of channels
8 for organizations to utilize. So, the design process is more challenging, and the
9 coordination is critical to make sure that systems do not interfere with each other. . .

10 . . . On Tuesday, December (sic) 12th., at approximately 12:00 PST the microwave
11 systems connecting Covelo to Big Signal Peak and then into Willits was turned up to
12 test the network path with the assumption that we had the reservation and all
13 organizations that use Microwave frequencies were in their legal and respective
14 approved locations. After the systems were enabled, the system was able to be
15 aligned and worked as anticipated without any abnormal interference on our system.
16 On the morning of Wednesday January 13th, we were alerted that another carrier was
17 having issues with their microwave system due to interference. We immediately
18 began working with Micronet to understand if and why our system would have been
19 the source of interference with the other carrier. It was discovered that while
20 Micronet had the temporary reserved status, **this other carrier was illegally
21 operating in [an] area that they were not and are not approved to be
22 broadcasting in.** Basically, it was identified that this carrier was using microwave
23 frequencies in an unauthorized and unapproved/unlicensed location for their
24 transmitters. . . . [emphasis added]

25 24. The carrier referenced in this publication is Your Town Online. Contrary to this
26 publication, Your Town Online was not “illegally operating” but was instead at all times licensed to
27 transmit at 6 GHz, as a common carrier, many years prior to the installation of Defendant’s
28 transmitters on Mount Sanhedrin. Your Town Online’s predecessor, Willitsonline, LLC, placed its
transmitter on Mount Sanhedrin in the location set forth in the license that was issued in 2007 and
assigned the call sign WQHQ838.

21 25. In late 2017, Your Town Online was working with the FCC to renew the license that
22 was issued in 2007 and assigned the call sign WQHQ838. During this process, Your Town Online
23 cooperated with the FCC by, inter alia, obtaining a new FRN, providing evidence of Willitsonline,
24 LLCs merger into Your Town Online, and paying a \$655 fee. By December 2017, Your Town
25 Online believed the licensed had been renewed.

26 26. On March 21, 2018, IntelPath contacted Your Town Online and advised that the
27 Sanhedrin call sign, WQHQ838, had expired and offered to apply for a new call sign and to re-
28 apply for the paths in the WQHQ838 license. Your Town Online requested that IntelPath reapply

1 for the paths.

2 27. On July 23, 2018, the FCC issued Your Town Online a radio frequency license by
3 with the call sign of WRBBY237, authorizing it to transmit as a common carrier, Fixed Point-to-
4 Point, from Mount Sanhedrin to Willits. Unbeknownst to Your Town Online, when IntelPath
5 reapplied for the license, the incorrect coordinates were entered for the Mount Sanhedrin
6 transmitter. Instead of the exact coordinates for the tower where Your Town Online had been
7 broadcasting for years on land leased from Fisher Wireless Services, Inc., coordinates for another
8 location, about 600 yards away, were entered.

9 28. Defendants Round Valley Indian Tribes and/or All Tribal Networks publication is
10 correct in stating that the 6 GHz frequencies are “very congested.” Thus, it is very important that
11 approved uses of the frequency not interfere with those already in place. It does not matter if the
12 transmitter coordinates of the parties vary from the exact, specific latitude / longitude locations on
13 licenses for Mount Sanhedrin. Any broadcast at 6 GHz by Defendants is going to prevent Plaintiff
14 from providing internet service to customers, including the intended beneficiaries such as the school
15 children attending virtual classes at Round Valley School District and, at any rate, Plaintiff’s
16 locations were necessarily approved as part of the rigorous inspection procedures before any of
17 those transmitters went online.

18 29. Defendants’ transmission at 11 GHz poses causes no interference with Your Town
19 Online’s reception, but their use of the additional and unneeded frequency in the 6 GHz band
20 completely marginalizes and interferes with Your Town Online’s ability to perform under its
21 contractual obligations to customers. As admitted in their publication, Defendants’ transmission at 6
22 GHz on or about January 13, 2021, interfered with the pre-existing and continuous transmission of
23 Your Town Online.

24 30. The only purpose behind Defendants’ use of the 6 GHz frequency is to interfere with
25 and undermine Plaintiff’s business relationships. The statement that the 6 GHz frequency is
26 sometimes needed for “heavy rains and adverse weather,” is simply untrue. Radio transmissions are
27 unaffected by weather conditions. Even if they were, Defendants can rely upon their 11 GHz path
28 and if necessary, select a second frequency away from the 6 GHz previously reserved for Plaintiff.

1 31. On March 5, 2021, a Cease and Desist letter was sent to Defendants confirming the
2 interference with Plaintiff's transmissions, and also identifying false statements issued by
3 Defendants' representative to third parties asserting "issues with the County of Mendocino"; that
4 the FCC "deducted" some of Plaintiff's licenses; that Plaintiff has had "hassle/drama"; and that
5 there are "countless horror stories" concerning Plaintiff and its services. No response was received.

6 32. Your Town Online's customers have indicated that that they have been approached
7 by Defendants to switch providers, with the pitch of sowing doubt and discord concerning the
8 reliability of Plaintiff's service. Plaintiff has also received prospective cancellations of their
9 agreements to provide internet services as a result.

10 33. In a Petition for Waiver addressed to the FCC dated August 31, 2020, Defendant
11 James Russ represented falsely that "Willets (sic) Online is available but does not offer speeds
12 above 6mbps for downloads and 768mbps to upload, and their service is down over 50 percent of
13 the time."

14 34. Since March of 2021, All Tribal Networks has repeatedly threatened to again "flip
15 the switch, and begin broadcasting permanently on their 6Ghz channel and interfere with Your
16 Town Online's reception. For example, All Tribal Networks threatened to resume interference on
17 May 18, 2021, and on dates thereafter unless Plaintiff pays the sum of \$7,000 per month. The
18 demand in part, states: "All Tribal Networks is amenable to entering into an agreement for All
19 Tribal Networks and Willits Online to share All Tribal Network's spectrum for a limited duration in
20 exchange for \$7,000.00/mo. payment, paid in advance." Plaintiff is informed and believe, and
21 thereon relies, that Defendants' activation on the 6 GHz frequency is imminent and that activation
22 will again effectively prevent service to over 1000 of Plaintiff's customers.

23 35. Plaintiff is informed and believes, and on that basis alleges, that on or about March
24 25, 2021, Round Valley Indian Tribes was issued a Private Operational Fixed Point-to-Point,
25 Microwave Public Safety Pool license by the Federal Communications Commission through the
26 Universal Licensing System (ULS), with a call sign of WRMD895, authorizing it to transmit from
27 the vicinity of Mount Sanhedrin, Mendocino County, on 2 distinct paths, from specified
28 coordinates. One path transmits at a frequency of approximately 11 GHz and the other transmits at

1 the same frequency as one of the YOUR TOWN ONLINE paths, i.e. approximately 6 GHz.

2 36. Prior to issuing a license the FCC requires that an authorized frequency coordinator
3 determine that broadcasting on the proposed frequency along the proposed path will not interfere
4 with the transmission and/or reception of existing licensees. 47 CFR § 90.175 requires that license
5 applications for a new frequency assignment include a showing of frequency coordination. 47 CFR
6 § 90.175(c) states: “For frequencies above 800 MHz: When frequencies are shared by more than
7 one service, concurrence must be obtained from the other applicable certified coordinators.”

8 37. Frequency coordination is also regulated by 47 CFR § 101.103, which provides in
9 part:

10 (a) Assignment of frequencies will be made only in such a manner as to facilitate the
11 rendition of communication service on an interference-free basis in each service area.
12 Unless otherwise indicated, each frequency available for use by stations in these
13 services will be assigned exclusively to a single applicant in any service area. All
14 applicants for, and licensees of, stations in these services must cooperate in the
15 selection and use of the frequencies assigned in order to minimize interference and
16 thereby obtain the most effective use of the authorized facilities. In the event harmful
interference occurs or appears likely to occur between two or more radio systems and
such interference cannot be resolved between the licensees thereof, the Commission
may specify a time sharing arrangement for the stations involved or may, after notice
and opportunity for hearing, require the licensees to make such changes in operating
techniques or equipment as it may deem necessary to avoid such interference. . .

17 . . . (e) Where frequency conflicts arise between co-pending applications in the Private
18 Operational Fixed Point-to-Point Microwave, Common Carrier Fixed Point-to-Point
19 Microwave and Local Television Transmission Services, it is the obligation of the
20 later filing applicant to amend his application to remove the conflict, unless it can
21 make a showing that the conflict cannot be reasonably eliminated. Where a frequency
conflict is not resolved and no showing is submitted as to why the conflict cannot be
resolved, the Commission may grant the first filed application and dismiss the later
filed application(s) after giving the later filing applicant(s) 30 days to respond to the
proposed action.

22 38. Plaintiff is informed and believes and on that basis alleges that in January 2021, All
23 Tribal Network and or Round Valley Indian Tribe’s frequency coordinator, Micronet, was notified
24 of the actual interference caused by All Tribal Network’s broadcast on its proposed 6 Ghz channel.
25 Despite this actual interference and calculations which predict such interference, Micronet did not
26 obtain concurrence from Your Town Online’s frequency coordinator IntelPath. Furthermore,
27 Micronet represented to the FCC that the use of the proposed frequency would not cause
28 interference and therefore was available for license to Round Valley Indian Tribe.

39. Plaintiff is informed and believes and on that basis alleges that due to Micronet's failure to acknowledge the interference caused by the 6 Ghz broadcast on or about March 25, 2021, Round Valley Indian Tribes was issued a Private Operational Fixed Point-to-Point, Microwave Public Safety Pool license by the Federal Communications Commission through the Universal Licensing System (ULS), with a call sign of WRMD895, authorizing it to transmit from the vicinity of Mount Sanhedrin to Willits on both a frequency in the 11 GHz band and on the proposed 6Ghz frequency which caused the interference.

40. The scope of licensure granted for the "Public Safety Pool" is defined by 47 CFR § 90.15, which provides in relevant part:

The Public Safety Radio Pool covers the licensing of the radio communications of governmental entities and the following category of activities: Medical services, rescue organizations, veterinarians, persons with disabilities, disaster relief organizations, school buses, beach patrols, establishments in isolated places, communications standby facilities, and emergency repair of public communications facilities. Entities not meeting these eligibility criteria may also be licensed in the Public Safety Radio Pool solely to provide service to eligibles on one-way paging-only frequencies below 800 MHz, i.e., those frequencies with the assignment limitations appearing at § 90.20(d)(13) or (d)(60). . . .

41. "Public Safety Pool" eligibility is defined by 47 CFR § 90.20. Plaintiff is informed and believes and thereon relies on that Round Valley Indian Tribes and/or ALL TRIBAL NETWORKS, LLC, together with MICRONET COMMUNICATIONS, INC., sought and obtained eligibility pursuant to 47 CFR § 90.20(x), which specifies the qualified applicants and provides specific limitations:

Persons or organizations maintaining establishment in isolated areas where public communications facilities are not available and where the use of radio is the only feasible means of establishing communication with a center of population, or other point from which emergency assistance might be obtained if needed, **for the transmission of messages only during an actual or impending emergency endangering life, health or property for the transmission of essential communications arising from the emergency. The transmission of routine or non-emergency communications is strictly prohibited.** [emphasis added].

(A) Special eligibility showing. The initial application requesting a station authorization for an establishment in an isolated area shall be accompanied by a statement describing the status of public communication facilities in the area of the applicant's establishment; the results of any attempts the applicant may have made to obtain public communication service. . . .

Cf. 47 U.S.C. § 301, which provides in relevant part:

1 It is the purpose of this [Federal Communications] Act, among other things, to
 2 maintain the control of the United States over all the channels of radio transmission;
 3 and to provide for the use of such channels, but not the ownership thereof, by persons
 4 for limited periods of time, under licenses granted by Federal authority, and no such
 5 license shall be construed to create any right, beyond the terms, conditions, and
 6 periods of the license. No person shall use or operate any apparatus for the
 transmission of energy or communications or signals by radio (a) from one place in
 any State, Territory, or possession of the United States or in the District of Columbia
 to another place in the same State Territory, possession, or District . . . except under
 and in accordance with this Act and with a license in that behalf granted under the
 provisions of this Act.

7 **FIRST COUNT**

8 **(Unlawful Actions Pursuant to Federal Communications Act)**

9 42. Plaintiff incorporates paragraphs 1-41 by reference.

10 43. Plaintiff brings suit in this Court, *inter alia*, under the authority of the Federal
 11 Communications Act, 47 U.S.C. §§ 206, 207, which provide:

12 206. In case any common carrier shall do, or cause or permit to be done, any act,
 13 matter, or thing in this chapter prohibited or declared to be unlawful, or shall omit to
 14 do any act, matter, or thing in this chapter required to be done, such common carrier
 15 shall be liable to the person or persons injured thereby for the full amount of damages
 16 sustained in consequence of any such violation of the provisions of this chapter,
 together with a reasonable counsel or attorney's fee, to be fixed by the court in every
 case of recovery, which attorney's fee shall be taxed and collected as part of the costs
 in the case.

17 207. Any person claiming to be damaged by any common carrier subject to the
 18 provisions of this Act may either make complaint to the Commission as hereinafter
 19 provided for or may bring suit for the recovery of the damages for which such
 common carrier may be liable under the provisions of this Act, in any district court of
 the United States of competent jurisdiction; but such person shall not have the right to
 pursue both such remedies.

20 44. 47 U.S.C. §§ 206, 207 establishes and authorizes a private right of action against any
 21 common carrier, and further has been broadly construed to encompass matters brought on behalf of
 22 common carriers, such as Plaintiff. See, e.g., Maydek v. Bonded Credit Co., (1996), 96 F.3d 1332,
 23 1334, citing MCI Telecomms. Corp. v. Teleconcepts, Inc. (1995) 71 F.3d 1086.

24 45. Since December of 2020 or January of 2021, Defendants Round Valley Indian
 25 Tribes and/or All Tribal Networks has/have been engaged as a common carrier for hire within the
 26 meaning of 47 U.S.C. § 153 (11) by soliciting Plaintiffs' customers, including but not limited to the
 27 Round Valley School District, for the purpose of providing internet services in exchange for money.
 28 Plaintiff is further informed and believes, and thereon relies, that Defendants Round Valley Indian

1 Tribes and/or All Tribal Networks have also secured customers for providing internet services,
2 since obtaining licensure in March of 2021, despite the express limitations of its Public Service
3 Pool designation.

4 46. Defendants Round Valley Indian Tribes, All Tribal Networks, and each of them,
5 committed unlawful acts within the meaning of 47 U.S.C. § 206 as follows:

6 A. At various times since December of 2020 caused to be transmitted radio signals at
7 the 6 GHz frequency for purposes not authorized for Public Service Pool licensees pursuant to 47
8 CFR § 90.15, 47 CFR § 90.20(x) and 47 U.S.C. § 301, as quoted hereinabove, in that they were not
9 transmitted during an actual or impending emergency endangering life, health or property for the
10 transmission of essential communications arising from the emergency;

11 B. After learning that transmission on the 6 GHz frequency interfered with Plaintiff's
12 contractual services, communicated that they would continue to transmit on that frequency, without
13 reference to any actual or impending emergency endangering life, health, or property, unless
14 Plaintiff paid an initial sum of \$7,000 per month;

15 C. On information and belief, when applying for its Public Service Pool license prior to
16 March of 2021, said Defendants did not provide an adequate statement "describing the status of
17 public communication facilities in the area of the applicant's establishment and the results of any
18 attempts the applicant may have made to obtain public communication service," within the meaning
19 of 47 CFR § 90.20(x)(A);

20 D. As required by 47 CFR § 90.175(c), said Defendants prior to obtaining licensure in
21 March of 2021 failed to obtain concurrence to share the 6 GHz frequency with Plaintiff from
22 Plaintiff's frequency coordinator, which at all times relevant was IntelPath;

23 E. As required by 47 CFR § 101.103(a) said Defendants prior to obtaining licensure in
24 March of 2021 failed to cooperate in the selection and use of the proposed frequencies in order to
25 avoid interference with Plaintiff's use as a common carrier, for which the Federal Communications
26 Commission took no discretionary action; and

1 F. As required by 47 CFR § 101.103(e) said Defendants prior to obtaining licensure in
2 March of 2021 failed to amend their application to remove the conflict of frequencies as the later-
3 filing applicant, for which the Federal Communications Commission took no discretionary action.

4 47. Plaintiff has over 1000 contracts with customers to provide internet services in
5 exchange for money, each of which has valuable consideration, and many of which are known by
6 Defendants to exist.

7 48. Defendants Round Valley Indian Tribes, All Tribal Networks, Micronet., and each
8 of them, by their acts set forth herein above intentionally caused disruption of Plaintiff's internet
9 services to its customers, and for the purpose of lessening competition or to restrain commerce,
10 thereby making it impossible or impracticable for Plaintiff to perform.

11 49. As a direct and proximate result of said Defendants' conduct, Plaintiff has been
12 injured by Defendants in an amount to be proven at trial.

13 **SECOND COUNT**

14 **(Violation of Sherman Antitrust Act, 15 U.S.C. § 1)**

15 50. Plaintiff incorporates paragraphs 1-49 by reference.

16 51. Defendant All Tribal Networks, Round Valley Indian Tribes and James Gusman
17 engaged in anti-competitive conduct by contacting Plaintiff's customers in the effort to monopolize
18 the provision of internet services in rural Mendocino County. Said defendants misrepresented the
19 scope of licensure as a Public Safety Pool licensee to both Plaintiff's customers and the public at
20 large and further used the 6 GHz frequency for the purpose of disrupting and terminating Plaintiff's
21 lawful provision of internet services, in order to achieve such a monopoly. Plaintiff has a lawful
22 share of the market for internet services, for which said Defendants have interfered and diminished.

23 52. In furtherance of their anti-competitive conduct, said Defendants entered into
24 agreements, both written and oral, among themselves, in 2020 and in the first quarter of 2021,
25 wherein it was agreed that Round Valley Indian Tribes would become the holder of an FCC license,
26 All Tribal Networks, would use its status as an LLC to interfere with Plaintiff's services and solicit
27 business from its customers and Micronet., would use its authority as both an agent for the licensee
28 Round Valley Indian Tribes and FCC-approved frequency coordinator, for the common purpose of

1 terminating Plaintiff's ability to provide internet services in rural Mendocino County.

2 53. As a direct and proximate result of Defendants' conduct, which are violations of the
3 Sherman Antitrust Act, 15 U.S.C. § 1, Plaintiff has been damaged by said Defendants in an amount
4 to be proven at trial.

5 **THIRD COUNT**

6 **(Violation of Sherman Act, 15 U.S.C. § 2)**

7 54. Plaintiff incorporates paragraphs 1-53 by reference.

8 55. The aforesaid actions by Defendants Round Valley Indian Tribes, All Tribal
9 Networks, and each of them, has harmed competition for internet services in rural Mendocino
10 County, and conspired to harm competition for internet services in rural Mendocino County, by
11 failing to acquire a lawful license that would foster competition and thereby establish a marketplace
12 with competitive pricing, and instead acted to stifle competition through the use of the 6 GHz
13 frequency in tandem with solicitation of Plaintiff's customers. The number and effectiveness of
14 competitors have been diminished by unlawful means.

15 56. There is no appropriate or legitimate business justification for All Tribal Network's
16 use of the 6 GHz frequency in tandem with solicitation of Plaintiff's customers.

17 57. As a direct and proximate result of Defendants' conduct, which are violations of the
18 Sherman Antitrust Act, 15 U.S.C. § 2, Plaintiff has been damaged by Defendants in an amount to be
19 proven at trial.

20 **FOURTH COUNT**

21 **(Trade Libel)**

22 58. Plaintiff incorporates paragraphs 1-57 by reference.

23 59. The statements by Round Valley Indian Tribes, All Tribal Networks, James Russ,
24 and James Gusman and each of them, regarding Plaintiff's internet services were untrue.

25 60. Said Defendants' statements regarding Plaintiff's internet services were
26 communicated to the FCC and various customers and prospective customers of Plaintiff.

27 61. Said Defendants' statements regarding Plaintiff's internet services were made with
28 malice.

62. As a result of said Defendants' false statements regarding Plaintiff's internet services, Plaintiff incurred lost earnings and profits, incurred harm to its reputation, and/or experienced decreased business traffic, for which Plaintiff has been damaged in an amount to be proven at trial.

FIFTH COUNT

(LANHAM ACT – FEDERAL UNFAIR COMPETITION (15 U.S.C. § 1125(a)))

63. Plaintiff incorporates paragraphs 1-62 by reference.

64. The statements by Round Valley Indian Tribes, Round Valley Indian Tribes, All Tribal Networks, James Russ and James Gusman, and each of them, to third parties indicating that Plaintiff's internet services were defective, such as claims in its publications that Plaintiff's transmissions were "illegal activity," statements in its publications that Plaintiff had "issues with the County of Mendocino," that the FCC "deducted" some of Plaintiff's licenses, that there is "hassle/drama" and that there are "countless horror stories," together with its assertions that 6 GHz transmissions interfering with Plaintiff's pre-existing transmissions are necessary due to "heavy rains and adverse weather," among other statements hereinabove alleged, both in communications to third parties and in advertisements and promotions, are false, misleading, likely to cause confusion among internet users in need of services for connectivity.

65. Said statements by Defendants, even if true or partially true, are deceptive or likely to deceive in a material way, in that they cast a false light and misleading inference that Plaintiff is a disreputable and unreliable provider of internet services when, in fact, Plaintiff has provided quality services to over 1000 customers.

66. Said statements by Defendants, even if true or partially true, are deceptive or likely to deceive in a material way, in that they tend to assert that Defendants have a legitimate business purpose in wanting to transmit at 6 GHz when, in fact, Defendants have a fully operational capability to transmit at 11 GHz without a need to interfere with Plaintiff's pre-existing business practice of providing quality services to over 1000 customers on the 6 GHz frequency.

67. Said statements by Defendants were published by electronic means and on the internet, and otherwise were communicated in interstate commerce.

1 Plaintiff as agreed.

2 78. The breach of contractual obligations by IntelPath proximately caused damages to
3 Plaintiff, in an amount to be proven at trial.

4 **SEVENTH COUNT**

5 **(Declaratory and Injunctive Relief)**

6 79. Plaintiff incorporates paragraphs 1-78 by reference.

7 80. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.

8 81. A real and justiciable controversy exists as between Your Town Online and Round
9 Valley Indian Tribes, and All Tribal Networks, over the respective radio transmissions at 6 GHz at
10 Mount Sanhedrin, and adjudication of the parties' respective rights and responsibilities is requested.

11 82. A real and justiciable controversy also exists as to Defendants' Round Valley Indian
12 Tribes, All Tribal Networks, James Gusman and James Russ', continuing disparagement of Plaintiff
13 and its business activities, and adjudication of the parties' respective rights and responsibilities is
14 requested.

15 83. Plaintiff requests a speedy trial pursuant to Rule 57 of the Federal Rules of Civil
16 Procedure.

17 WHEREFORE, Plaintiffs pray for judgment as set forth below.

18 **PRAYER FOR RELIEF**

19 1. For money damages, according to proof;

20 2. For a judicial declaration that the license with call sign WRMD895 is invalid, that
21 All Tribal Networks, shall not transmit from Mount Sanhedrin and its vicinity at a frequency of 6
22 GHz or approximately 6 GHz, and ordering that Defendants All Tribal Networks, James Gusman
23 and James Russ., and their officers, agents, servants, employees, attorneys, and those persons and
24 entities in active concert of participation with them shall cease and desist from communications
25 disparaging the quality or legality of Plaintiff's transmissions or provision of services;

26 3. For an order preliminarily and permanently enjoining All Tribal Networks, from
27 transmitting from Mount Sanhedrin and its vicinity at a frequency of 6 GHz or approximately 6
28 GHz.

1 4. For an order preliminarily and permanently enjoining Defendants and their officers,
2 agents, servants, employees, attorneys, and those persons and entities in active concert of
3 participation with them from untruthfully disparaging the quality or legality of Plaintiff's
4 transmissions or its' provision of services.

5 5. For money damages as against Intelpath, as alleged.

6 6. For prejudgment interest in an amount to be determined at trial;

7 7. For reimbursement of reasonable attorneys' fees and costs of suit as permitted by
8 law;

9 8. For punitive and exemplary damages, according to proof;

10 9. For such other and further relief as the Court may deem just and proper.

11
12 DATED: June 9, 2021

JOHNSTON | THOMAS, Attorneys at Law

13
14 By: /s/ Richard C. O'Hare
15 Richard C. O'Hare, Attorney for Plaintiff
16 YOUR TOWN ONLINE, INC.
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DEMAND FOR JURY TRIAL

Plaintiff Your Town Online Inc. demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

DATED: June 9, 2021

JOHNSTON | THOMAS, Attorneys at Law

By: /s/ Richard C. O'Hare
Richard C. O'Hare, Attorney for Plaintiff
YOUR TOWN ONLINE, INC.